

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



April 13, 2004

Agenda ID #3460  
Quasi-Legislative

TO: PARTIES OF RECORD IN RULEMAKING 01-12-009

This is the draft decision of Administrative Law Judge (ALJ) Econome. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ ANGELA K. MINKIN  
Angela K. Minkin, Chief  
Administrative Law Judge

ANG:sid

Attachment

Decision **DRAFT DECISION OF ALJ ECONOME** (Mailed 4/13/2004)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the  
Commission's Own Motion to Evaluate Existing  
Practices and Policies for Processing Offset Rate  
Increases and Balancing Accounts in the Water  
Industry to Decide Whether New Processes are  
Needed.

Rulemaking 01-12-009  
(Filed December 11, 2001;  
reopened July 23, 2003)

**OPINION GRANTING PETITION FOR MODIFICATION  
OF DECISION 03-06-072****I. Summary**

This decision grants the petition of California-American Water Company (CalAm) to clarify that the earnings test requirement adopted in Decision (D.) 03-06-072 does not apply to the experimental water revenue adjustment mechanism (WRAM) balancing accounts established for CalAm's Monterey District.

**II. The Petition**

On September 5, 2003, CalAm filed this petition. CalAm explains it is the only water utility for which the Commission has authorized a WRAM account. The Commission established the WRAM account in 1996 as part of CalAm's experimental rate design for residential customers in its Monterey District. (See D.96-12-005, 69 CPUC2d 398, 418-420, which adopted a settlement for CalAm's Monterey District general rate case.) Because the experimental rate design increased the variability of CalAm's revenues, the settlement contained a new

WRAM account to track the variation in projected revenue incurred under the experiment. The purpose of the WRAM is to allow the experimental rate plan, which is designed to encourage conservation efforts and mitigate the impact of rising water rates on customers with fixed low incomes, to go forward without significant impact on the ratemaking risk and reward ratio for CalAm. The settlement provided that the “WRAM account balance would accrue interest at the 90-day commercial paper rate, and CalAm would file an advice letter for amortization of such balance at any time that it exceeded 5% of gross annual revenues and is anticipated to exceed 5% of gross annual revenues within the following six months for the Monterey District.” (69 CPUC2d at 405.)

The Commission originally approved the WRAM for a single rate case cycle, but renewed authorization in subsequent general rate cases. (See e.g., D.03-02-030, 2003 Cal. PUC LEXIS 121 \* 56; D.00-03-053, 2000 Cal. PUC LEXIS 229, \* 90 (adopting a settlement).)

### **III. Procedure**

Because the issue that is the subject of this petition was raised in CalAm’s Monterey general rate case, an Administrative Law Judge (ALJ) ruling directed Cal-Am to serve its petition on the service list of Application (A.) 02-04-022 (CalAm’s last Monterey District general rate case), as well as on this rulemaking. The Office of Ratepayer Advocates (ORA) filed an opposition to CalAm’s petition.

CalAm argues that the balancing accounts at issue in D.03-06-072 addressed only expenses, whereas the WRAM balancing accounts serve as a rate design correction, and do not address expenses. Because, according to CalAm, the WRAM balancing accounts allow the experimental rate design to go forward

without significant impact on CalAm's ratemaking risk and reward ratio, CalAm believes that D.03-06-072 should not apply to these accounts.

ORA requests that the Commission deny CalAm's petition, and clarify that the provisions of D.03-06-072, including the earnings test requirement, apply to the WRAM balancing accounts. ORA believes that the rationale of D.03-06-072 applies equally to revenue balancing accounts, because both types of balancing accounts are for the purpose of preventing financial injury to the utility, and both the expense and revenue balancing account insure against the failure of the utility to earn its authorized earnings.

#### **IV. Discussion**

The balancing accounts at issue in D.03-06-072 allow the utilities to track and recover unanticipated expenses within the rate case cycle to prevent financial injury, and to serve as insurance to utilities that certain uncontrollable expenses will not affect the utilities' ability to achieve authorized earnings. These balancing accounts do not address rate design but rather, they address expenses.

By contrast, the WRAM balancing accounts allow CalAm to track and, if necessary, recover the variation in projected revenue incurred under the experimental rate plan, and serve as a rate design correction in an experimental program. To encourage conservation and assist low income customers, these accounts remove the disincentive to CalAm to keep sales down, and give the company guaranteed revenues. The accounts do not protect CalAm from higher costs, and if the revenues exceed the amount considered reasonable, Cal-Am has to return the balance to the customers.

We therefore agree that it is reasonable that the balancing account test enunciated in D.03-06-072 should not apply to CalAm's established WRAM

experimental balancing accounts for the Monterey District, and modify D.03-06-072 accordingly.

#### **V. Comments on Draft Decision**

The draft decision of ALJ Econome was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_.

#### **VI. Assignment of Proceeding**

Geoffrey F. Brown is the Assigned Commissioner and Janet A. Econome is the assigned ALJ in this proceeding.

#### **Findings of Fact**

1. The balancing accounts at issue in D.03-06-072 do not address rate design, but rather, address expenses.
2. The WRAM balancing accounts address rate design, and allows CalAm to track and, if necessary, recover the variation in projected revenue incurred under the experimental rate plan, and serve as a rate design correction.
3. The balancing account test enunciated in D.03-06-072 is inappropriate to apply to CalAm's established WRAM experimental balancing accounts because the purpose of the WRAM account is different than the purposes of the accounts at issue in D.03-06-072.

#### **Conclusions of Law**

1. CalAm's Petition for Modification of D.03-06-072, filed on September 5, 2003, should be granted to the limited extent of clarifying that D.03-06-072 does not apply to CalAm's established experimental WRAM balancing accounts.
2. This decision should be effective immediately so that CalAm can receive this clarification regarding its WRAM balancing accounts.

**O R D E R**

**IT IS ORDERED** that:

1. California-American Water Company's (CalAm) Petition for Modification of Decision (D.) 03-06-072, filed on September 5, 2003, is granted to the limited extent set forth below.

2. D.03-06-072 is modified to clarify that it does not apply to CalAm's established experimental water revenue adjustment mechanisms balancing accounts.

3. This proceeding is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.